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# PERMANENCY PLANNING

A SURVEY OF THE PROCESS  
RELATING TO CHILDREN IN MISSOURI

**MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE**

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**October, 1984**

# PERMANENCY PLANNING

## A Survey to the Process Relating to Children in Missouri

Prepared by  
Missouri Juvenile Justice Review Committee  
October, 1984

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Missouri Juvenile Justice Review Committee  
P.O. Box 1332  
Jefferson City, Missouri 65102

# MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE

P. O. BOX 1332  
JEFFERSON CITY, MISSOURI 65102  
(314) 751-3265

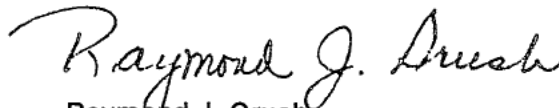
October, 1984

Dear Reader

As a part of its commitment to youth and children, the Missouri Juvenile Justice Review Committee has prepared the following report on Permanency Planning; a Survey of the Process Relating to Children in Missouri. The committee believes this process warrants review and attention in terms of the processes, services, and agencies involved.

It is the hope of the Review Committee that you will find this report both informative and thought provoking. We intend to pursue the changes recommended in this report and we welcome your support and participation in this endeavor.

Sincerely,

A handwritten signature in cursive script that reads "Raymond J. Grush".

Raymond J. Grush  
MJJRC Facilitator

## **TABLE OF CONTENTS**

INTRODUCTION .....	4
PART I: HISTORY OF PERMANENCY PLANNING IN MISSOURI .....	5
PART II: PERMANENCY PLANNING SURVEY RESULTS .....	7
A. Permanency Planning .....	7
B. Termination of Parental Rights .....	10
C. Miscellaneous Information .....	11
PART III: SUMMARY OF RESULTS OF MJJRC'S PERMANENCY PLANNING SURVEY .....	12
PART IV: RECOMMENDATION .....	13
APPENDIX	
A. References .....	19

## **INTRODUCTION**

This paper presents the results of a survey conducted by the Missouri Juvenile Justice Review Committee (MJJRC) to review the impact and identify possible problem areas of Sections 210.700-210.760 and 211.442-211.492 RSMo, as amended in 1982.

The survey was designed to collect data concerning the permanency planning process and to request recommended changes to the termination of parental rights statute from the perspective of each respondent group. A 100% response was received from the forty-four (44) judges, forty-four (44) juvenile officers, and one hundred fifteen (115) Division of Family Services offices, to whom the survey was sent.

Accountability for children in care has been enhanced. Dispositional review hearings are held; written notices are given; proceedings are recorded and formal reports, which may include reports from the permanency planning review teams, are made regularly to the court.

Termination of parental rights is occurring even though parents contest the proceedings, paternity is not clear, and/or when a specific adoptive family is not available.

In the majority of circuits, permanency planning applications extend beyond the Division of Family Services's alternative care to include children in the custody of the Department of Mental Health, children in institutions, and children in juvenile court facilities.

While recommendations for change will be made later in this paper, it is noted here that the survey results were positive. Results from the survey clearly indicate that the philosophy of permanency planning has been accepted and is being implemented, thus, adding a new dimension to Missouri's public child welfare/court system.

MJJRC extends its appreciation to all respondents for their participation. A special "thank you" is extended to the Honorable Andrew Jackson Higgins, Judge, Missouri Supreme Court, and Joseph J. O'Hara, Director, Division of Family Services, for their assistance in obtaining a 100% response to the survey.

## **I. HISTORY OF PERMANENCY PLANNING IN MISSOURI**

In 1978 the Missouri Division of Family Services (DFS) personnel attended a presentation of the results of the Oregon project, "Freeing Children for Permanent Placement." The Oregon project had grown out of recognition that "foster care drift," the movement of a child among foster homes, thereby preventing development of stability, was detrimental to the child.

After this presentation, DFS implemented a special Missouri project based on the concept of "permanency planning." The merits of the project were tested by comparing the results of an experimental group with those of a control group. The goal of the project was to achieve permanent placement of all children in the experimental group during the period of the study. The placement objectives included returning foster children to their parents, freeing foster children for adoption, and making long-term foster care arrangements for children who could not return home or be adopted.

This Missouri project demonstrated that permanency planning techniques resulted in a significantly higher overall placement rate (50.9% in the experimental group as opposed to 33.9% in the control group) of children placed for adoption. The difference in placement rates was even greater for handicapped, minority, and older children. Based on the results of the Missouri project, DFS implemented the permanency planning philosophy, methodology, and casework techniques statewide.

Based upon Missouri's selection for participation in the National Council of Juvenile and Family Court Judges' permanency planning project in October, 1981, a permanency planning training seminar for twenty-one (21) juvenile court judges was conducted in March, 1982, by the National Council in cooperation with the Missouri Supreme Court Committee on Training and Education and the Missouri Council of Juvenile Court Judges. The conference was supported by the Danforth Foundation, the Kansas City Association of Trusts and Foundations, the Edna McConnell Clark Foundation, and the National Council of Juvenile and Family Court Judges.

This initial conference produced the following tangible, positive outcomes:

1. The unanimous resolution of the participants to request that the Missouri Supreme Court establish a permanency planning task force composed of juvenile court judges, Department of Social Services representatives, representatives from citizen's child advocacy groups, and others involved in court-ordered placement of children to develop a statewide plan for permanency planning;
2. Requests from nine (9) judges for assistance in developing local foster care review projects;
3. Significant changes in proposed legislation relative to neglected and abused children which was subsequently passed into law in 1982 when Sections 210.700-210.760 RSMo were amended;
4. A number of informative and highly favorable articles in the St. Louis Post Dispatch and other newspapers statewide; and
5. A commitment from the Danforth Foundation and the Kansas City Association of Trusts and Foundations to fund several additional permanency planning workshops and another conference for juvenile court judges.

Based upon the funding commitment, a permanency planning conference was held in October, 1982, for thirty-two (32) additional juvenile court judges, and in March and September of 1983, interdisciplinary permanency planning "team building" workshops were conducted in Columbia, Missouri, for juvenile officers, social workers, citizen volunteers, and circuit court judges.

The supporting foundations agreed with the planning committee that the problems surrounding foster care in Missouri, the steps already taken, and the gains achieved should be brought to the attention of Missouri's legislators. Consequently, a permanency planning conference was held in May, 1984, for state legislators.

## II. PERMANENCY PLANNING SURVEY RESULTS

The survey sought information concerning the mechanics of permanency planning: Is it beneficial? In what ways? Is it used?

### A. PERMANENCY PLANNING

**Is Permanency Planning Helpful?** This question was asked of all three groups surveyed. Over 96% of those surveyed indicated that the introduction of “permanency planning” into Missouri has been helpful. Over 97% of the judges answered this question in the affirmative.

	YES	NO	BLANK
Division of Family Services	97%	3%	0
Juvenile Judges	98%	2%	0
Juvenile Officers	93%	2%	5%

**Monitoring:** All surveys addressed the issue of how juvenile courts monitor permanency planning. Most courts use more than one form of monitoring as shown in the chart below.

	DFS	COURTS	JUVENILE OFFICERS	AVERAGE
Six-month Report	92%	93%	84%	90%
Written Service Agreements	75%	89%	89%	84%
PPRT Findings	78%	73%	84%	78%
Written Case Plan	22%	32%	41%	32%
Other	14%	32%	30%	25%

**Six-Month Reports:** Section 270.710 RSMo stated that any agency which has had custody of a child for a six-month period shall forward a “written report on the status of the child” and that the report “shall be presented to the court.” Specifically, 93% of the judges, 92% of DFS offices, and 84% of the juvenile officers surveyed stated that the six-month report was used as one form of monitoring permanency planning.

**Written Service Agreements:** This is the second most commonly used form of monitoring permanency planning. Eighty-nine percent (89%) of the judges and juvenile officers surveyed indicated that written service agreements were utilized in monitoring permanency planning. Seventy-five (75%) of DFS offices indicated the same.

**Permanency Planning Review Team Findings:** Monitoring of permanency planning by use of review team findings is used an average of 78% of the time. Eighty-four percent (84%) of the juvenile officers indicated these findings are used to monitor permanency planning. Seventy-eight percent (78%) of DFS offices and 73% of judges indicated the same.

**Written Case Plans/Other:** Written case plans are used less frequently than the other forms of monitoring listed. Less than 25% of DFS offices surveyed indicated the court used written case plans, while 41% of the juvenile officers and 32% of the judges indicated the same.

Other means of monitoring permanency planning were the dispositional hearing itself, (12%); conferences, (3.4%); or special reports, (3.4%).

**Permanency Planning Review Team:** The survey asked the question, "Are the permanency planning review team's findings received?" Overall, 98% of DFS offices received permanency planning review team findings, as do 95% of the juvenile officers. Only one court stated it did not receive team findings. With an average of 95% in all three groups receiving team findings, the survey sought to determine if, and in what ways, those findings were used. A percentage comparison indicates DFS offices use the permanency planning review team findings more than do juvenile officers. DFS offices use the findings for the following:

95% use them to modify written case plans  
90% use them to modify service agreements

Eighty-two percent (82%) of the juvenile judges use the recommendations of the permanency planning review teams in dispositional hearings. Overall, 87% of those surveyed found permanency planning review team recommendations always or frequently helpful.

	DFS	JUVENILE JUDGES	JUVENILE OFFICERS	AVERAGE
Are PPRT findings Received? Yes.	98 %	86 %	95 %	95 %
Are PPRT recommendations used? Yes.	84 %	82 %	80 %	82 %
Are findings used to modify written case plans? Yes	95 %		50 %	73 %
Are findings used to modify written service agreements? Yes.	90 %		43 %	67 %
Are they always/frequently helpful? Yes.	89 %	82 %	90 %	87 %

**Long-Term Foster/Relative Care:** The survey also asked all three groups if "long-term foster care" or "long-term relative placement" were considered by the court as a permanency plan. Over 96% of the respondents agreed that these are considered to be components of permanency planning.

**The Dispositional Review Hearing:** Juvenile court judges and juvenile officers were asked a series of questions pertaining to the actual dispositional review hearing itself. The survey questions sought to determine the procedures followed when a dispositional review hearing is held. Over 78 % of those within the two groups surveyed considered a dispositional review hearing a formal proceeding, and 94% considered advanced notice of the hearing a requirement. A written notice is required by the overwhelming majority of the courts. Over 84 % of the juvenile judges surveyed stated that a written record was made of the proceedings.

Under 60 % of those surveyed indicated that the child was present at a dispositional review hearing. These two groups were then asked to which out-of-home placements do dispositional review hearings apply.

CHILDREN IN	JUDGES	JUVENILE OFFICERS
Foster Care	91 %	95 %
Institutions	73 %	71 %
Relative Care	68 %	64 %
Juvenile Court Placements	68 %	59 %
Department of Mental Health	50 %	52 %

**Frequency of Dispositional Review Hearings:** The survey next asked all three groups to state the frequency of dispositional review hearings for children placed out of the home. Most of the respondents (66%) stated that these hearings occurred between six and eighteen months. About 4% of the respondents stated these hearings were held under six months. A total of 13 respondents (6.4%) indicated that hearings occurred "by request," while 7 respondents (3.4%) indicated hearings were held at the "court's direction." Only one court stated the dispositional review hearings were never held.

**Future Improvements in Permanency Planning:** The survey requested input into possible improvements within the structure of permanency planning. Improvements mentioned in the returned questionnaires are as follows:

- 4% wanted more involvement by the court;
- 3% wanted policy changes; and
- 6% wanted more cooperation and involvement between DFS, juvenile judges and juvenile officers

Adequate legal counsel, juvenile officer's training, and additional resources were other improvements stated.

## B. TERMINATION OF PARENTAL RIGHTS (TPR):

Termination of parental rights in order to free children for adoption is also an important component of permanency planning. MJJRC sought to determine just what problems, if any, have been experienced in this area and what solutions may be proposed.

**TPR Request to the Circuit Judge:** The survey sought to determine the awareness of DFS offices of their right by statute to take a TPR request to the judge of the juvenile division if the juvenile officer does not file a TPR action.

The results indicated that 92% of DFS offices were aware of their right to take a request to the judge in such cases; however, only 11% had ever done so.

**Court-Directed Petitions:** This section sought to determine the willingness of the courts to order the juvenile officer to file a TPR petition as the result of a dispositional review hearing. An average of 82% of all respondents indicated that their judge had made, or would make, such an order as the result of a dispositional review hearing. Ninety-three percent (93%) of the judges, 86% of the juvenile officers, and 67% of DFS offices answered "yes" to this question.

**Contested Terminations:** A question was asked of all respondents as to whether the court would terminate parental rights when one or both of the parent(s) are contesting TPR. Ninety-nine percent (99%) of the judges responded "yes" to the question, as did 95% of the juvenile officers. In contrast, 69% of DFS offices answered "yes" to this question.

**Rights of Fathers:** The survey also sought to determine the willingness of the court to terminate the parental rights of the father in the following situations:

**When the father is known, but unnamed -** Sixty-seven percent (67%) of all respondents indicated that the court would notify the father and proceed; however, 7% indicated the court would not terminate, and 17% responded that the procedure was unclear (unknown).

**When the father's name is known, but he is not asserting his paternity -** Eighty-seven (87%) of all respondents stated that the court would notify the father and proceed, 3% said the court would not terminate, and 5% said the procedure of the court is unclear.

**When the father is unknown -** Ninety-four percent (94%) of those surveyed responded to this question. Of those responding, 102 or 54%, said the court would notify through publication and proceed, while 6, or 3% said the court would not terminate. Twenty-four percent (24%) said the procedure of the court was unclear.

**TPR Without Specific Available Adoptive Parents:** A direct question was asked, "Does the court terminate parental rights without specific adoptive parents being available for a specific child?" Eighty-nine percent (89%) of the judges responded "yes" to this question as did 91% of the juvenile officers and 79% of DFS offices.

**TPR or Waiver of Consent:** All surveys contained a question as to whether the court terminates parental rights under Chapter 211 RSMo (TPR) or Chapter 453 RSMo (adoption) when there are consenting natural parents. Fifty-nine percent (59 %) of the judges indicated that either option would be acceptable, as did 57 % of the juvenile officers and 52 % of DFS offices.

**Reconciling TPR and Adoption Procedures:** The survey sought to determine possible suggested changes in the TPR (Chapter 211 RSMo) and adoption statutes (Chapter 453 RSMo). An equal percent of all respondents indicated that the chapters should: 1) be made consistent, (28%); 2) be consolidated, (28%); and 3) be left alone, (28%). Only 16 % of the judicial respondents stated that the statutes should be consolidated.

**TPR Statutory Changes:** This section sought to determine whether the particular provisions of the TPR statute are perceived to be ambiguous, and what, if any, additional grounds for termination should be included. Forty percent (40%) of DFS offices, 34% of the juvenile officers, and 27 % of the judges found the provisions to be ambiguous.

Suggestions for changes to Chapter 211.447 RSMo were received from members in each participant group. These suggestions included revision to clarify existing ambiguity to rewrite existing grounds and to add new grounds for termination of parental rights. MJJRC reviewed these suggestions and from them have included recommendations for changes in the TPR statute in Section IV, Recommendations.

#### C. MISCELLANEOUS INFORMATION:

In addition to the issues previously addressed, MJJRC sought information on various questions pertaining to adoptive placements, subsidized adoptions, and guardianship placements.

**Subsidized Adoption:** The respondents were asked whether the subsidized adoption program was being utilized effectively to encourage the adoption of special needs children. A total of 59% of the respondents felt that it is effective. Of DFS offices, 83% responded affirmatively, as compared to 27% of both the judges and juvenile officers. However, 55 % of the judges and 57 % of the juvenile officers responded that they did not know whether the program is being used effectively.

**Guardianship Placement:** Question 19 on the surveys sent to DFS offices and the juvenile officers asked whether a "guardianship type" provision under Chapter 211 RSMo would allow an additional option for permanency planning.

In response to this issue, 83% of DFS offices and 57 % of the juvenile officers indicated that a guardianship provision in Chapter 211 RSMo would provide an additional option.

### III. SUMMARY OF RESULTS OF MJJRC'S PERMANENCY PLANNING SURVEY

- There is overwhelming support for the usefulness of the permanency planning process.
- Six-month reports, written service agreements, and permanency planning review team findings are the methods most frequently used by courts to monitor permanency planning.
- The findings and recommendations of the permanency planning review team are almost always used in planning and evaluating case progress and are used in dispositional review hearings 82 % of the time.
- Long-term relative and long-term foster care are given consideration as permanency planning options.
- Dispositional hearings are generally formal proceedings with a written notice required. Of the circuits, 85% indicated a permanent record is made of the proceedings.
- A total of 58% of the circuits reported the child is always present at the review hearing.
- If warranted, most juvenile court judges would direct their juvenile officers to file for termination of parental rights as a result of the dispositional review hearing.
- Most courts would terminate parental rights even if one of both parents contested termination.
- The majority of the courts will terminate parental rights without a specific family available for a child.
- The survey results suggest that there is some ambiguity in the termination of parental rights statute. Suggestions for additional grounds for TPR were received, some of which are included in the recommendations (Section 4).
- A total of 67% of the respondents indicated the termination of parental rights adoption process under Sections 211.442-211.492 and 453.073-453.170 RSMo should be consistent, consolidated, or changed.
- Over 50% of the courts require prior approval for out-of-state adoption of healthy and special needs children while about 33% of the courts require prior approval if the children are placed out of circuit.
- A total of 83% of the respondents from DFS offices believed DFS's subsidized adoption program is utilized effectively. However, the majority of the judges and juvenile officers did not know whether or not it is used effectively.
- The subject of independent adoptions was addressed by the survey, but due to lack of clarity, the results were not tabulated.
- A "guardianship" type provision in Chapter 211 RSMo was viewed by most respondents as an additional option for permanency planning.

#### IV. RECOMMENDATIONS

- MJJRC recommends that the statute concerning dispositional review hearings be clarified to include all children in out-of-home placements whether under the care, custody of DFS, juvenile court, or Department of Mental Health.
- The participation of the child in the dispositional review hearing should be encouraged, whenever appropriate, taking into consideration the age and emotional maturity of the child.
- MJJRC recommends the following changes in the TPR Statute:
  - (1) The abandonment provision [211.447.2(2)(a)b.] should be amended to clearly outline the criteria that must be used in determining parental abandonment of a child who is in the care, custody and control of DFS.
  - (2) The neglect provision [211.447.2(2)(b)] should be amended to provide that
    - a court-approved plan is not required when ground for termination existed before the child was taken into protective custody.
    - the parent is required to make him or herself available for service process of the plan and provide that failure to do so eliminates the need for a plan as a prerequisite to termination of parental rights.
  - (3) The serious injury provision [211.447.2(2)(e)] should be amended to include mental injury.
  - (4) The failure to support provision [211.447.2(2)(f)] should be amended to require the parent to support the child in an amount ordered by the court, even if
    - after notice, the parent fails to attend the hearing, or,
    - the court is unable to serve the parent with the court-approved service plan specifying support payments.
  - (5) The mental condition of the parent provision [211.447.2(2)(g)] should be amended to
    - eliminate the requirement that there be [no reasonable likelihood that the condition is reversible] and substitute **or the condition is unlikely to be reversed in the reasonable foreseeable future.**
    - eliminate the requirement that [such parent has substantially and repeatedly neglected the child or failed to give the child necessary care and protection].
    - adopt a test similar to the following:

The parent has a mental condition which meets one or more of the following requirements:

      - Renders the parent unable to form an intent or act knowingly;
      - Renders the parent unable to meet the child's physical, mental, or emotional needs;
      - Renders the parent unable to ensure the safety of the child;
      - Subjects the parent to chronic, periodic psychotic episodes during which the parent falls within one of the above categories.
  - (6) 211.447.2(2)(h) should be amended to strike the language [has subjected the child to substantial risk of serious physical, mental, or emotional harm] and substitute **which is found likely by the court to be detrimental to the physical or mental health or morals of the child.**

- (7) The failure to rectify provisions [211.447.2(2)(i)] should be amended to provide that parent(s) have failed to rectify when the original petition alleges neglect generally under section 211.031 RSMo and:
    - parent(s) abandon the child, or
    - parent(s) fail to maintain more than token contact with the child, or
    - parent(s) fail to pay support in an amount ordered by the court prior to filing the petition for TPR.
  - (8) The following grounds for termination of parental rights should be added to the statute:
    - Conviction of a felony resulting in incarceration which will prohibit the parent(s) from exercising responsibilities under 211.021 RSMo for a substantial period of time.
    - When a person is habitually convicted, and, therefore, unable to perform the duties as legal custodian under 211.021.4 RSMo.
    - Conviction of a crime involving physical, mental, or sexual abuse of a child.
    - Sexually molesting or knowingly permitting the sexual molestation of a sibling.
    - Knowingly permitting the sale of a child or sibling.
    - Knowingly permitting the child or sibling to take part in pornography.
- MJJRC recommends that legislation be developed to establish a “legal custody” type provision in Chapter 211 RSMo. It would be used for children who are expected to remain in out-of-home care for an extended period and for whom adoption is unlikely. Such placement would be sufficiently permanent to allow DFS and the juvenile court, after a short trial period, to cease active supervision, yet the custodian would remain eligible to receive certain benefits on behalf of the child, such as DFS subsidies and medicaid.
  - MJJRC recommends that funding be made available for subsidized adoption of hard-to-place children who are not in the custody of DFS and that more detailed information regarding the subsidized adoption program be routinely provided to juvenile officers and judges.
  - MJJRC recognizes the discussion relative to expanding the right to file a termination of parental rights petition to include other persons, such as, foster parents and guardians ad litem. However, MJJRC strongly recommends that the juvenile officer should be the only individual authorized under the statute to file such a pleading. The committee would reiterate that options exist for other interested parties in the event that the juvenile officer would choose not to file such an action. Those options include the statutory and Supreme Court Rules provision that any interested person may, in fact, appeal to the judge for review in the event that the juvenile officer refuses to proceed. An additional option is available through the adoption code wherein a prospective adoptive parent may file a two-count petition which includes a request for transfer of legal custody for the purpose of adoption.
  - While extensive efforts have occurred over the State of Missouri in the past to ensure that key individuals in the systems (judges, juvenile officers, and DFS county directors) have a comprehensive understanding of permanency planning, a continuing need for training in the future still exists. This training should address two ongoing

needs. The first is the recognition of the turnover in personnel within the judiciary, juvenile courts, and DFS. Persons who move into these key positions need to have the same comprehensive understanding of permanency planning issues so as to continue the high level of commitment which has evolved. Secondly, permanency planning training should be extended to include line-level personnel charged with the responsibility of service delivery to children. This has been identified as a continuing and unmet need.

- Although MJJRC was unable to tabulate the survey results on the issue of independent adoptions, the subject is one which has been identified as needing ongoing study and review. Any further study should include the need for a public policy in this area and the propriety of reimbursement of the biological parents for certain costs, such as reasonable medical costs and necessary legal fees.



## **APPENDIX A**



#### REFERENCES

1. Public Law 96-272, June 17, 1980
2. Missouri Juvenile Code
3. Missouri Revised Statutes: Chapters 210 and 211, statutes, 210.700; 210.710; 210.720; 211.730; 211.241; 211.442; 211.447; 211.452; 211.453; 211.457; 211.462.

The instrument used in the conduct of this survey is available for review upon request.

## MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE

### MEMBERS

Mr. Dale Bellerose  
Western Missouri Mental Health Center  
Child Psychiatry  
Kansas City, MO 64108

Mr. John Bonnot  
Program Development Administrator  
Division of Youth Services  
Jefferson City, MO 65102

Mr. R. Dale Dortch  
President, Missouri Juvenile Justice Assn.  
Harrisonville, MO 64701

Mr. Paul Dow  
Executive Director, Missouri Child Care Assn.  
Jefferson City, MO 65102

Ms. Kathleen Dowd  
Juvenile Officer, 6th Judicial Circuit  
Platte City, MO 64079

Mr. Raymond J. Grush  
Juvenile Officer, 11th Judicial Circuit  
St. Charles, MO 63301

Mr. Kenneth M. Hensiek  
Chief Juvenile Officer, 21st Judicial Circuit  
Clayton, MO 63105

Mr. Ronald Larkin  
Director of Operations  
State Courts Administrator's Office  
Jefferson City, MO 65101

Mr. Bill Lawson  
Juvenile Officer, 33rd Judicial Circuit  
Sikeston, MO 63801

Mr. Forestal Lawton  
Facility Manager, 16th Judicial Circuit  
Kansas City, MO 64108

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Director of Court Services  
31st Judicial Circuit  
Springfield, MO 65802

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Chief Deputy Juvenile Officer, 22nd Circuit  
St. Louis, MO 63108

Mr. Robert L. Perry  
Director of Court Services, 13th Circuit  
Columbia, MO 65201

Ms. Linda Roebuck  
Coordinator, Children & Youth Services  
Department of Mental Health  
Jefferson City, MO 65102

Mr. Gary Sherman  
Director, Division of Youth Services  
Jefferson City, MO 65102

Ms. Joan Solomon  
Director, Urban Education  
Department of Elementary & Secondary Education  
Jefferson City, MO 65102

Mr. Gary Thurman  
Assistant to the Deputy Director  
Division of Family Services  
Jefferson City, MO 65103

Mr. James Woodsmall  
Supervisor, Policy & Program Development  
Division of Family Services  
Jefferson City, MO 65103

### COMMITTEE STAFF

Ms. Mary Jo Cardwell  
Executive Director  
Jefferson City, MO 65102

Ms. Jane Smith  
Administrative Assistant  
Jefferson City, MO 65102

### JUDICIAL ADVISORY COMMITTEE MEMBERS

The Honorable Ninian M. Edwards  
Circuit Judge, 21st Judicial Circuit, Div. 12  
Clayton, MO 63105

The Honorable George Henry  
Circuit Judge, 40th Judicial Circuit  
Neosho, MO 64850

The Honorable John Parrish  
Circuit Judge, 26th Judicial Circuit, Div. 1  
Camdenton, MO 65020

The Honorable Robert Russell  
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Warrensburg, MO 64093

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